



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,643	08/25/2003	Sean Phillips	515858-2008	2510

7590 02/09/2005

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
----------	--------------

3679

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,643

Applicant(s)

PHILLIPS ET AL.

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004 and 18 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56,57 and 62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56,57 and 62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

Applicant has indicated that an IDS with copies of the foreign references has been filed. After careful review of the case, the examiner cannot find the copy of the IDS and copies of the foreign references. It is believed that these items were not submitted with the amendments filed on 10/18/04 and 11/18/04.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recitations "an upper portion including means for adjustably engaging a positional engagement means of the side block" recited in lines 3-4 of claim 56, "a lower portion including means for adjustably engaging at least one elongated track on either side of a center portion of the base" recited in lines 5-6 of claim 56, "a direction of adjustment for the upper portion engaging means is independent of a direction of adjustment for the lower portion engaging means" recited lines 7-8 of claim 56, "the positional engagement means of the side block and the track of the base are locked in a single action" recited in lines 9-10 of claim 56; and, the recitations "the upper portion including an upper device for adjustably engaging an

Art Unit: 3679

elongated slot of the side block" in line 3-4 of claim 62, "the lower portion", "lower device", and "lower portion including a lower device for adjustably engaging at least one elongated track on either side of a center portion of the base" in lines 5-6 of claim 62, "direction of adjustment for the upper device is independent of a direction of adjustment for the lower device" in lines 7-8, "the upper device of the side block and the track of the base are locked in a single action" in lines 8-9 are not recited in the specification.

Drawings

The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

In particular, the features of the lock member are not clearly shown. Applicant needs to supply details of the lock member 105 in two cross sections showing the upper portion, the lower portion, the upper device, and the lower device. Figures 6B and 12B are not sufficient to understand the invention. In particular, the operation of the lock member.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "105" has been used to designate both a block having a rivet and a releasable fastener 155 (Figure 1) and a block having strap bridges 1205,

Art Unit: 3679

1210 (Figure 12A, 13A, 13B). Also "105" is shown twice in Figure 12A near 175. The second 105 needs to have another reference character.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "120" as recited on page 16 in line 19.

The drawings are objected to because Figure 12 does not exist as specified in the brief description of the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

Art Unit: 3679

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 56, 57 and 62 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 56, the description “a direction of adjustment for the upper portion engaging means is independent of a direction of adjustment for the lower portion” recited in lines 7-8 cannot enable one skilled in the art how to structurally make this concept. The claim does not give structural details and the arrangement of the structural details for making the direction of adjustment. Furthermore, it is unclear how one single action locks the side block and the track. Also, what features are involved to

Art Unit: 3679

lock the side block and the track. Applicant has remarked, at the end of page 5, that pushing down lock member fixes the block in place but does not go into details as to what features are engaged or how the lock member operates to lock.

Regarding claim 57, it is unclear how the engaging means of the upper portion enables the side block to be adjusted rotationally.

Regarding claim 62, the description "a direction of adjustment for the upper device is independent of a direction of adjustment for the lower portion" recited in lines 7-8 cannot enable one skilled in the art how to structurally make this concept. The claim does not give structural details and the arrangement of the structural details for making the direction of adjustment.

Claims 56, 57, and 62 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 56, it is unclear whether applicant is claiming the lock member in combination with the base. Furthermore, it is unclear how the recitation "said positional engagement means of the side block and the track of the base are locked in a single action" in lines 9-10 further limits the structure of the lock member.

Art Unit: 3679

Regarding claim 62, there is an inconsistency between the language in the preamble and a certain portion in the body of the claim, thereby making the scope of the claim unclear. The preamble clearly indicated that the "locking member" is for securing a side block". However, the body of the claim positively recites "the side block", e.g., "the upper device of the side block and the track of the base are locked in a single action" (lines 8-9), which indicates the claims as being drawn to a combination of the "lock member" and the "side block". Therefore, applicant must clarify what the claims are intended to be drawn to, i.e., either the "lock member" alone or in combination with the "side block", and present the claims with the language, which is consistent with the invention.

Furthermore, the metes and bounds of claim 62 is unclear. Applicant has stated that "the upper portion includes an upper device" in line 3. Thus, the upper device is of the upper portion, which contradicts "the upper device of the side block" in line 8. Therefore, it is unclear whether "the upper device" in line 8 is of the side block or of the upper portion.

Moreover, it is unclear whether applicant is claiming the track in combination with lock member. Lines 5 and 6 recite that the lower device is "for adjustably engaging at least one elongated track". However, in lines 8 and 9, it indicates that the upper device and the track are locked in a single action, which indicates that the track is claimed.

Art Unit: 3679

Therefore, applicant needs to present language indicating that the track is positively claimed or make reference that the track is to be locked with the upper device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 56, 57 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Norman, 979,903 (see marked-up attachment).

Regarding claim 56, Van Norman discloses, in Figure 4, a lock member comprising an upper portion **D** including means **m** for adjustably engaging a positional engagement means of a side block **A1**; and a lower portion **C** including means **B** for adjustably engaging at least one elongated track **a** on either side **A2** of a center portion of a base **A**. A direction of adjustment for the adjustably engaging means **m** of the upper portion **D** is independent of a direction of adjustment for the adjustably engaging means **B** of the lower portion **C**. A positional engagement means **n** of the side block **A1** and the track **a** are locked in a single action (turning component **G** in a clockwise direction is one action).

Regarding claim 57, the engaging means **m** enables the side block **A1** to be adjusted longitudinally and rotationally. The engaging means **B** of the lower portion **C** enables the side block **A1** to be adjusted laterally.

Regarding claim 62, Van Norman discloses, in Figure 4, a lock member comprising an upper portion **D** including an upper device **m**; and a lower portion **C** including a lower device **B**. A direction of adjustment for the upper device **m** is independent of a direction of adjustment for the lower device **B**. The upper device **m** and a track **a** are locked in a single action (turning component **G** in a clockwise direction is one action).

Response to Arguments

Applicant's arguments with respect to claims 56, 57 and 62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the limitation "said positional engagement means of the side block and the track of the base are locked in a single action" in lines 9-10 of claim 56, and "said upper device of the side block and the track of the base are locked in a

Art Unit: 3679

single action" in lines 8-9 of claim 62 necessitated the new grounds. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 9:30-6:00. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. Any inquiry of a

Art Unit: 3679

general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EL .



E.G.

February 2, 2005

Attachment: one marked-up page of Van Norman

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Fig. 4

